

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Kevin Andrew Partaka**
Docket No. **267429**
L.C. No. **00-005183 FC**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal filed December 27, 2005, is DISMISSED for lack of jurisdiction because it was not filed within 12 months of the August 2000 judgment of sentence as required by MCR 7.205(F)(3). It was also not filed within 12 months of the February 2003 order. As to the judgment of sentence, neither exception to the 12-month limitation has been satisfied in this case. In particular, the second condition of the second exception was not satisfied as counsel was not requested within 12 months of the judgment of sentence. See MCR 7.205(F)(4)(b). The record does not support appellant's assertion that he did not request counsel because he believed he was not entitled. At the time of sentencing, defendant was specifically told that counsel may be appointed and the form handed to the defendant at sentencing made no representation that defendant would not be appointed counsel if he made a request. Contrast the form in this case with the form in docket number 265445 where the written form said, "you are not entitled to a lawyer appointed ... unless you meet the requirements in item 2 below."



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

February 8, 2006
Date

Sandra Schultz Mengel
Chief Clerk